

500

# ARTICLES OF ACCUSATION,

E 2521

EXHIBITED  
By the Commons House of Parlia-  
ment now assembled,

AGAINST

S<sup>r</sup>. John Bramston *Knight*, } *Justices of his Maje-*  
S<sup>r</sup>. Robert Berkley *Knight*, } *sties Bench.*

S<sup>r</sup>. Francis Crawley *Knight*, one of the *Justices of*  
*the Common-pleas.*

S<sup>r</sup>. Humphrey Davenport *Knight*, } *Barons of his*  
S<sup>r</sup>. Richard Weston *Knight*, and } *Majesties Ex-*  
S<sup>r</sup>. Thomas Trevor *Knight*, } *chequer.*

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2 CHRON. 19. 6, 7.

*Jehosopat said to the Judges, Take heed what ye do : for ye  
judge not for man ; but for the Lord ; wherefore let the feare  
of the Lord be upon you ; for there is no iniquitie with the Lord  
our God, nor taking of gifts.*

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Printed for I. H. 1641.

# ARTICLES

## OF ACCESSION

EXHIBITED

By the Commons House of Parliament

in the Year 1701

AGAINST

St. John Baptist, and St. John the Evangelist

St. Robert, and St. Thomas

St. Francis Xavier, and St. Francis

the Confessor

St. Humphrey, and St. Hugh

St. Richard, and St. John

St. Thomas, and St. Thomas

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OF THE

Testimonies of the Saints, and the Miracles  
which they have wrought, and the  
of the Lord be upon you for their holy lives and the Love  
our God, and taking of life.

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Printed for J. H. 1704.

The Articles of impeachment of Sir Robert Berkley Knight,  
one of the Justices of the Court of the Kings Bench; by the  
Commons in this present Parliament assembled, in their owne  
name, and in the name of al the Commons of England, in  
maintenance of their accusation, whereby he standeth charged  
with high treason, and other great misdemeanors.



**I**nprimis, that the said Sir Robert Berkley, then being one of the Justices of the said Court of Kings Bench, hath traiterously, and wickedly, endeavoured to subvert the fundamentall Lawes, and established government of the Realme of England; and, instead thereof, to introduce an Arbitrarie, and Tyrannicall government against Law, which he hath declared by traiterous and wicked words, opinions, judgements, practises, and actions appearing in the severall Articles ensuing.

02 Whereas by the Statute made in the five & twentieth year of the raigne of the late King *Henry* the eighth, prices of Victualls are appointed to be rated in such manner, as in the said Statute is declared. But it is manifest by the said Statute, Corne is none of the victualls thereby intended. Nevertheless some ill-affected persons endeavouring to bring a charge upon the subjects contrary to Law, did surmise that the prices of Corne might be rated, and set according to the direction of that Statute, and thereupon great gain might be raised to his Majestie, by licences and dispensations for selling Corne at other prices: And a command from his Majestie being procured to the Judges, and sent to them by *William Noye* Esquire, his Majesties then

Attorney,

Attorney generall; to deliver their opinions touching the question, whether Corne was such victuall as was intended to have the price rated within the said Statute: In answer to which demand, the said Sir *Robert Berkley* then being one of his Majesties Justices of the Court of Kings Bench, in furtherance of the said unlawfull charge, endeavoured to be imposed, as aforesaid, the 30 day of *November*, in the 8. year of his now Majesties Raigne; did deliver his opinion, that Corne was such victuall as was intended to have the price rated within the said Statute; which said opinion was contrary to Law; and to the plaine sence, and meaning of the said Statute; and contrary to his owne knowledge, and was given and delivered by him, with a purpose and intention, that the said unlawfull charge might be imposed upon the Subject.

3 That an information being preferred in the Court of Star-chamber by they said *William Noy*, his Majesties then Attorney generall, against *John Overman*, and fifteen other Soape makers Defendants, charging them with severall pretended offences, contrary to divers Letters Patents, and Proclamations, touching the making and uttering Soape, and using the trade of Soape-makers, and other offences in the said Information mentioned, whereunto the Defendants did plead, and demurre as to part, and answer to other part of the said Information: And the said Plea and demurrer being over-ruled, for that the particulars therein insisted upon, would appeare more fully after answer and prooffe; therefore the Defendants were ordered to answer without prejudice, and were to be admitted to such exceptions to the said Information, and advantages of the matter of the Plea and demurrer upon the hearing as shall be materiall; and accordingly the Defendants did put in their answers, and set forth severall Acts of Parliament, Letters Patents, Charters, Customes, and A & s of Common-counceill of the Cite of London, and other matters materially conducing to their defence; and in conclusion pleaded  
not



not guiltie. The said *Sir Robert Berkley* then being one of the Justices of the Court of Kings Bench, upon the 30. day of *March*, in the eighth yeare of his Majesties now raigne, upon an Order of Reference to him and others by the said Court of Star-chamber, to consider of the impertinencie of the said answers, did certifie the said Court of Star-chamber, that the whole answers, excepting the foure words and ten last lines, should bee expunged, leaving thereby no more in substance of the said answers, then the Plea of not guiltie. And after upon a Reference to him and others, by order of the said Court, of the impertinencie of the Interrogatories, and depositions of witnesses taken on the Defendants part; in the same case the said *Sir Robert Berkley*, upon the second day of *May*, in the eighth yeare of his now Majesties raigne, certified that nine and thirtie of the said Interrogatories, and the depositions upon them taken, should be suppressed, with answers (except as aforesaid) and depositions, although the same did containe the said Defendants most materiall defence. Yet were expunged and suppressed according to the said Certificates; both which said Certificates were contrary to Law, and Justice, and contrary to his the said *Sir Robert Berkley's* owne knowledge, and contrary to the said former order, whereby the advantages were saved to the Defendants, as aforesaid: And by reason thereof, the said *John Overman*, and the said other fiftene Defendants, were sentenced in the said Court of Star-chamber, to be committed prisoners to the Fleet, and disabled from using their trade of Soape-makers: And one of them fined in a thousand five hundred pounds; two of them in a thousand pound a peece; foure of them in a thousand Marke a peece; the rest five hundred pounds a peece; which fines were estreated into the Exchequer without any mitigation: And the said Defendants according to the said sentence were imprisoned, and deprived of their trade and livelihood, tending to the utter ruine of the said Defendants, and to the overthrow

throw of free trade, and contrary to the libertie of Subjects.

4. That hee the said Sir Robert Berkley then being one of the Justices of the Court of Kings Bench, and having taken an oath for the due administration of Justice, according to the Lawes and Statutes of this Realme, to his Majesties liege people, on or about the last of December subscribed an opinion, *in hac verba*: [I am of opinion, that as where the benefit doth more particularly redound to the good of the Ports, or Maritime parts, (as in case of Pyracie or Depredations upon the Seas) there the charge hath beene, and may be lawfully imposed upon them, according to presidents of former times; so where the good and safety of the kingdome in generall is concerned, and the whole kingdome in danger, (of which his Majestie is the onely Judge) there the charge of the defence ought to be borne by all the Realme in generall: this I hold agreeable both to Law and reason.]

5. That he the said Sir Robert Berkley, then being one of the Justices of the Court of Kings Bench, and duly sworne as aforesaid, in February 1636. subscribed an extrajudiciall opinion, in answer to questions in a letter from his Majestie, *in hac verba*:

Charles R. When the good and safetie of the kingdome in generall is concerned, and the whole kingdome in danger, whether may not the King, by writ under the great Seale of England, command all the Subjects of this kingdome, at their charge, to provide and furnish such number of Ships with Men, Victuall and Munitiō; and for such time, as hee shall thinke fit, for the defence and safeguard of the kingdome. from such danger and perill; and by Law compell the doing thereof in case of refusall, or refractorinesse? And whether in such case is not the King the sole Judge, both of the danger, and when, and how the same is to bee prevented and avoided? C. R.

May it please your most excellent Majestie, We have,  
according

‘according to your Majesties command, severally every  
 ‘man by himselfe, and all of us together, taken into serious  
 ‘consideration the Case and Question signed by your Ma-  
 ‘jestic, and inclosed in your Royall letter; and we are of  
 ‘opinion, that when the good and safetie of the kingdome  
 ‘in generall is concerned, and the whole kingdome in dan-  
 ‘ger, your Majestic may, by writ under the great Seale  
 ‘of England, command all your Subjects of this your king-  
 ‘dome, at their charge, to provide and furnish such number  
 ‘of Ships with Men, Victuall and Munition; and for such  
 ‘time as your Majestic shall thinke fit, for the defence  
 ‘and safeguard of the kingdome, from such danger and pe-  
 ‘rill; And that by Law your Majestic may compell the  
 ‘doing thereof in case of refusall, or refractorinesse: And  
 ‘we are also of opinion that in such case, your Majestic is  
 ‘the sole Judge both of the danger, and when, and how  
 ‘the same is to bee prevented and avoided. *John*  
 ‘*Brampton, John Finch, Humphrey Davenport, John Den-*  
 ‘*ham, Richard Hutton, Williams Jones, George Croke,*  
 ‘*Thomas Trevor, George Vernon, Robert Berkley, Francis*  
 ‘*Crawley, Richard Weston.*

6 That he the said *Sir Robert Berkley*, then being one of the  
 Justices of the Court of Kings Bench, and duely sworne as  
 aforesaid, did on the deliver his opinion in the  
 Exchequer Chamber, against *John Hampden* Esquire in the  
 Case of Ship-money, That he the said *John Hampden* upon  
 the matter and substance of the Case, was chargeable with  
 the money then in question: A copie of which proceeding,  
 and judgement, the Commons of this present Parliament  
 have delivered to your Lordships.

7 That he the said *Sir Robert Berkley*, then being one of  
 the Justices of the Court of Kings Bench, and one of the  
 Justices of Assize for the Countie of Yorke, did at the  
 Assizes held at Yorke in Lent, 1636. deliver in his charge  
 to the grand Jurie, that it was a lawfull and inseparable  
 flower of the Crowne, for the King to command not only  
 the

the Maritime Counties, but also those that were In-land, to find ships for the defence of the Kingdome. And then likewise falsely, and maliciously affirmed, that it was not his single judgement, but the judgement of all his brethren, witnessed by their subscriptions: And then also said, that there was a rumour that some of his Brethren that had subscribed, were of a contrary judgement; but it was a base and unworthy thing, for any to give his hand contrary to his heart; and then wished for his owne part that his hand might rot from his arme, that was guiltie of any such crime; when as he knew that Mr. Justice *Hutton* and Mr. Justice *Crooke*, who had subscribed, were of a contrary opinion, and was present when they were perswaded to subscribe; and did subscribe for conformitie, onely because the major number of the Judges had subscribed. And hee the said Sir *Robert Berkley* then also said, that in some Cases the Judges were above an Act of Parliament; which said false and malicious words were uttered, as aforesaid, with intent and purpose to countenance and maintaine the said unjust opinions, and to terrifie his Majesties Subjects that should refuse to pay Ship-money, or seeke any remedie by Law against the said unjust and illegall taxation.

8. That whereas *Richard Chambers* Merchant having commenced a suit for trespassse and false imprisonment against Sir *Edward Bromfield* Knight, for imprisoning him the said *Chambers* for refusing to pay Ship-money, in the time that the said Sir *Edward Bromfield* was Lord Mayor of the Citie of London, in which suit the said Sir *Edward Bromfield* did make a speciall justification: The said Sir *Robert Berkley* then being one of the Justices of the Court of Kings Bench, in Trinitie Terme last, then sitting on the Bench in the said Court, upon debate of the said Case, betwene the said *Chambers* and Sir *Edward Bromfield*, said openly in the said Court, that there was a rule of Law, and a rule of government: And that many things which might not be done by the rule of Law, might be done by the rule

of government, and would not suffer the Point of legality of Ship-money to be argued by the said *Chamber*; his Council; all which opinions, declarations, words and speeches contained in the third, fourth, fifth, sixth, seventh, and eighth Articles, are destructive to the fundamentall Lawes of this Realme, the Subject's right of property, and contrary to former resolutions in Parliament, and to the petition of right, which resolutions in Parliament and petition of rights were well knowne to him, and resolved, and enacted, when he was the Kings Sergeant at law, and attendant in the Lords house of Parliament.

That he the said Sir *Robert Berkley*, then being one of the Judges of the Court of Kings Bench, and being in commission of the Peace, and duly sworne to execute the office of a Justice of Peace in the County of *Hertford*, on or about the seventh of *January*, 1638. at which time the generall Sessions of the Peace for the said Countie were there holden: The said Sir *Robert Berkley*, then and there sitting on the Bench, did revile and threaten the grand Jurie returned to serve at the said Sessions, for presenting the removall of the Communion Table in All Saints Church in *Hertford* aforesaid out of the place where it anciently and usually stood, and setting it Altar-ways against the Lawes of this Realme, in that Case made and provided, as an innovation in matters concerning the Church; the said grand Jurie having delivered to them in charge at the said Sessions, by Master Sergeant *Askins* a Justice of Peace of the said County of *Hertford*, that by the oath they had taken, they were bound to present all innovations concerning Church matters. And he the said Sir *Robert Berkley* compelled the four men of the Jurie, to tell him who gave him any such information, and thereby knowing it to be one *Henry Browne*, one of the said grand Jurie, he asked the said *Browne* how he durst meddle with Church matters; who affirming that in the said charge from Master Sergeant *Askins*, the said Jurie were charged so to do; he

the said Sir *Robert Berkley* told the said *Browne*, hee should therefore finde faultes for the good behaviour; and that hee the said Sir *Robert Berkley* would set a great fine on his head, to make him an example to others; and thereupon the said *Browne* offered sufficient baile; but hee the said Sir *Robert Berkley*, being incensed against him, refused the said baile, and committed the said *Browne* to prison, where hee lay in Irons till the next morning; and used to the said *Browne* and the rest of the Jurors, many other reviling and terrifying speeches; and said, he knew no Law for the said presentment, and told the said *Browne* that he had sinned in the said presentment. And hee compelled the said grand Jurors to say, they were sorry for what they had done in that presentment; and did bid them to trample the said presentment under their feet, and caused *Browne* to teare the said presentment in his sight. And hee the said Sir *Robert Berkley*, when as *John Honlaud*, and *Ralph Pemberton* late Maior of St. *Albans*, came to desire his opinion on severall Indictments against *John Browne* Parson of Saint *Albans*, and *Anthony Smith* Vicar of St. *Peters* in Saint *Albans*, at the quarter Sessions held for the said towne of St. *Albans* on the fourth and twentieth of *June*, 1639, for the removall of the Communion Table out of the chancel place, and not administering the Sacrament according to the Law in that Case provided, Hee the said Sir *Robert Berkley* then told them that such an Indictment was before him at *Hertford*, and that he quashed the same, and imprisoned the Promoters; by which threatening and reviling speeches, unjust actions and declarations he terrified the Jurors in those parts, that they durst not present any Innovations in Church matters, to their great griefe and trouble of their consciences.

And whereas severall indictments were presented against *John Brooke* Parson of *Tarmouth* by *John Ingham* and *John Carter*, for refusing severall times to administer the Sacrament of the Lords supper to them without any law-  
full



full cause, at the Assizes held at *Worcester* in the second week of  
1633, he the said Sir Robert Berkeley, then being one of the  
Judges of the Assize, proceeded then to the trial, on the  
said Indictments, where the matter in issue being, that the  
said Brooke refused to administer the said Sacrament, be-  
cause the said Ingram and Carter would not receive tickets  
with their Sir names before their Christian names, which  
was a course never used amongst them, but, by the said  
Brooke; He the said Sir Robert Berkeley did then much dis-  
courage the said Ingrams Counsel, and overruled the  
cause for matter of Law, so as the Jurie never went from  
the Bar, but there found for the said Brooke. And the said Sir  
Robert Berkeley bound the said Ingram, to the good behavi-  
our for prosecuting the said Indictments; and ordered him  
to pay costs to the said Brooke for wrongfully indicting him.  
And whereas the said Carter, not expecting the trial at the  
same Assizes, he preferred his Indictment, was then absent,  
whereupon the said Sir Robert Berkeley did cause to be en-  
tered on the said Indictment, a *vacat quia non sufficiens in  
lege*, and ordered an attachment against the said Carter,  
which said proceedings against the said Ingram and Carter,  
by the said Sir Robert Berkeley, were contrary to Law and  
Justice, and to his own knowledge.

10. That the said Sir Rob. Berkeley, being one of the Justices  
of the Court of Kings Bench, and duely sworn as aforesaid,  
in Trinitie Terme, in 1637, deferred to discharge, or baile  
*Alexander Jennings* prisoner in the Fleet, brought by  
*Habeas Corpus* to the Bar of the said Court, the returne of  
his Commitment being, that he was committed by two se-  
verall warrants from the Lords of the Councell, dated the  
fift of November 1636. the first being onely read in Court  
expressing no cause, the other for not paying Messengers  
fees; and untill he should bring a certificate that hee had  
paid his Assesment for Ship-money in the Countrey of  
*Bucks*, but remitted him: And in Michaelmas Terme  
after, the said Jennings being brought by another *Habeas*

*Corpus* before him, as aforesaid, and the same returned; yet he the said Sir Robert Berkeley, refused to discharge or baile him, but remitted him. And, in Easter Terme, after severall rules were given for his Majesties Councell to shew cause why the said *Jenings* should not be bailed, a fourth rule was made for the said *Jenings*, to let his Majesties Attorney Generall have notice thereof, and notice was given accordingly; and the said *Jenings* by another *Habeas Corpus*, brought to the Barre in Trinity Terme after, and the same returne with this addition of a new Commitment of the fourth of May, suggesting he the said *Jenings* had used diverse scandalous words in derogation and disparagement of his Majesties government: He the said *Jenings* after severall rules in the end of the said Trinity Terme, was againe remitted to prison. And he the said Sir Robert Berkeley, did on the fifth of June last, deferre to grant his Majesties Writ of *Habeas Corpus*, for William Pargiter and Samuel Danvers Esquires, prisoners in the Gate-house, and in the Fleet: And afterwards having granted the said Writ of *Habeas Corpus*, the said *Pargiter* and *Danvers* were on the eighth of June last, brought to the Barre of the said Court, where the returns of their Commitments were severall warrants from the Lords of the Councell, not expressing any cause; yet he the said Sir Robert Berkeley, then sitting in the said Court, deferred to baile the said *Pargiter* and *Danvers*, and the eighteenth of June last, made a rule for a new returne to be received, which were returned the five and twentieth of June last, in these words: *That*

*whereas* his Majestie finding that his subjects of Scotland, have in rebellious and hostile manner assembled themselves together, and intend now and yet to shake off their obedience unto his Majestie, but also as enemies to invade and infect this his Kingdom of England, to the danger of his Royall Person, &c.

For prevention whereof, his Majestie hath by the advice of his Councell-board, given speciall commandement to

all the Lord Lieutenants of all the Counties of this Realme, appointed for their Rendezvous, in their severall and respective Counties, there to be conducted and drawne together into a body for this service. And whereas his Majestie, according to the Lawes and Statutes of this Realme, and the constant custome of his Predecessours, Kings and Queenes of this Realme, hath power for the defence of this kingdome, and resisting the force of the Enemies thereof, to grant forth Commissions under his great Seale to such fit persons as he shall make choice of, to array and arme the Subjects of this kingdome, and to compell those who are of able body, and of able estates, to arme themselves; and such as should not be able of bodies, but of ability in estate, to assesse them according to their estates, to contribute towards the charge of arraying and arming others, being able of body, and not able in estate, to arme themselves. And such persons as should be contrariant to commit to prison, there to remaine untill the King should take further order therein.

And whereas the Earle of Exeter, by vertue of his Majesties Commission to him directed, for the arraying and arming of a certaine number of persons in the County of Northampton, hath assesse *William Pargiter*, being a man unfit of body for that service, but being of estate and ability fit to contribute amongst others, to pay the summe of five shillings towards the arraying and arming of others of able bodies, and wanting ability to array and arme themselves.

And whereas we have received information from the said Earle, that the said *William Pargiter* hath not onely in a wilfull and disobedient manner refused to pay the said money assesse upon him towards so important a service, to the disturbance and hinderance of the necessary defence of this kingdome; but also by his ill example hath misled many others, and, as we have just cause to beleve, hath practised to seduce others from that ready obedience which

they owe, and would otherwise have yeelded to his Majesties just command, for the publike defence of his person and kingdom; which we purpose with all convenient speed to enquire further of and examine.

These are therefore to will and require you, to take into your custody the persons of the said *William Pargiter*, and *Samuel Danvers*; and them safely to keepe prisoners till further order from this Board, or untill by due course of Law they shall be delivered: Yet he the said *Sir Robert Berkley*, being desired to baile the said *Pargiter* and *Danvers*, remitted them, where they remained prisoners till the ninth of November last, or thereabouts, although the said *Jennings*, *Pargiter*, and *Danvers*, on all and every the said returns, were cleerly baileable by Law; and the Council of the said *Jennings*, *Pargiter*, and *Danvers*, offered in Court very sufficient baile. And he the said *Sir Robert Berkley*, being one of the Justices of the Court of Kings Bench, denied to grant his Majesties Writs of *Habeas Corpus* to very many others his Majesties subjects; and when he had granted the said Writs of *Habeas Corpus* to very many others his Majesties subjects, and on the returne no cause appeared, or such onely as was cleerly baileable by Law; yet he remanded them, where they remained prisoners very long; which said deferring to grant the said Writs of *Habeas Corpus*, and refusals, and delayes to discharge prisoners, or suffer them to be bailed, contained in this Article, are destructive to the fundamentall Lawes of this Realme, and contrary to former resolutions in Parliament, and to the petition of Right; which said resolutions and petition of Right were well knowne to him the said *Sir Robert Berkley*, and were resolved on and enacted, when he was the Kings Serjeant at Law, and Attendant in the Lords House in Parliament.

II That whereas there was a cause depending in the Court Christian at Norwich, betweene *Samuel Booty* Clerkey, and *John Collard* for 2. sin the l. for tithes, for rents, and houses

houses in Norwich, and the said *Collard* moved by his Councell in the Court of Kings Bench for a prohibition to stay proceedings in the Court Christian at Norwich, and delivered into the said Court of Kings Bench his suggestions, that the said cause in the said Court Christian was onely for tythes for rents of houses in Norwich, which was determinable by the Common Law onely: yet hee the said Sir *Robert Berkley*, being one of the Justices of the said Court of Kings Bench, and sitting in the said Court, deferred to grant a Prohibition to the said Court Christian in the said cause, although the Councell did move in the said Court many severall times, and severall termes for a Prohibition: And he the said Sir *Robert Berkley* deferred to grant his Majesties writ of Prohibition to severall other Courts on the motions of divers others of his Majesties subjects, where the same by the Lawes of this Realme ought to have been granted, contrary to the Laws of this Realme, and his owne knowledge.

All which words, opinions, and actions, were so spoken and done by him the said Sir *Robert Berkley* traiterously and wickedly to alienate the hearts of his Majesties liege people from his Majestie, and to set a division betwixt them, and to subvert the fundamentall Lawes and established government of his Majesties Realme of England: For which they doe impeach him the said Sir *Robert Berkley* one of the Justices of the Court of Kings Bench, of high treason against our Sovereigne Lord the King his Crowne and Dignity, and of the misdemeanours above-mentioned.

And the said Commons by protestation, saving to themselves onely the liberties of exhibiting at any time hereafter, any other accusation or impeachment against the said Sir *Robert Berkley*, and also of replying to the answer, that he the said Sir *Robert Berkley* shal make to the said Articles, or any of them, or of offering prooffe of the premisses, or any other impeachments or accusations that shall be exhibited

bited by them, as the Case shall according to the course of Parliaments require, Doe pray that the said Sir Robert Berkley, one of the Justices of the Court of Kings Bench, may be put to answer to all and every the premises; and that such proceedings, examinations, trialls, judgements and executions, may be upon every of them had and used, as is agreeable to Law and Justice.

was determined by the  
the said Sir Robert Berkley being one of the Justices of the  
the Court of Kings Bench, and sitting in the said Court  
doe hereby give a Provision to the said Court  
that in case the said Court shall think fit to order  
the said Court may lawfully make and lawfully execute  
a Provision to the said Sir Robert Berkley  
to grant his Petition in the said Court  
in the said Court of Kings Bench  
to have been granted according to the said Law  
and his own Justice.

All which words spoken in the said Court  
and in the said Court of Kings Bench  
and in the said Court of Kings Bench  
people now in the said Court  
them, and to advise the said Court  
passed Government of the said Court  
For which they do hereby give a Provision

of the said Court of Kings Bench  
high treason against our Sovereign Lord the King  
Crown and Dignity, and of the same dangerous  
mentioned.

And the said Court of Kings Bench  
lower Court, the said Court of Kings Bench  
after any other occasion of offence, and the said  
Sir Robert Berkley, and also of replying to the said  
he the said Sir Robert Berkley, and make void the said  
or any of them, or of offering to do the same  
any other impediments or obstructions to the said  
said Court.



*Articles of the House of Commons, in the name of themselves, and all the Commons of England, against Sir John Brampton Knight, Lord chiefe Iustice of the Court of Kings Bench, impeaching him as followeth.*

1. **T**hat the said Sir John Brampton, then being Lord Chiefe Iustice of the Court of Kings Bench, and having taken an oath for the due administration of justice to his Majesties liege people, according to the Lawes and Statutes of this Realme, did on or about the last of November 1635. subscribe his name to an opinion, *in hac verba*: [ I am of opinion, that as where the benefit doth more peculiarly redound to the good of the Ports, or Maritime parts, (as in case of Pyracie or Depredations upon the Seas) there the charge hath bene, and may be lawfully imposed upon them, according to presidents of former times; so where the good and safety of the kingdome in generall is concerned, and the whole kingdome in danger, (of which his Majestie is the onely Iudge) there the charge of the defence ought to be borne by all the realme in generall: this I hold agreeable both to Law and reason. ]

2. That hee the said Sir John Brampton, then being Lord chiefe Iustice of the Court of Kings Bench, about the Moneth of February, 1635. did subscribe an extrajudicial opinion in answer to questions in a letter from his Majestie, which letter, questions and answer follow, *in hac verba*:

\* Charles R. When the good and safety of the Kingdome in generall is concerned, and the whole kingdome

in danger, whether may not the King, by writ under the great Seale of England, command all the Subjects of this kingdome, at their charge, to provide and furnish such number of Ships with Men, Victuall and Munition; and for such time, as hee shall thinke fit, for the defence and safeguard of the kingdome, from such danger and perill; and by Law compell the doing thereof in case of refusall, or refractorinesse? And whether in such case is not the King the sole Judge, both of the danger, and when, and how the same is to be prevented and avoided? *C. R.*

May it please your most excellent Majestie, We have, according to your Majesties command, severally every man by himselfe, and all of us together, taken into serious consideration the Case and Question signed by your Majestie, and inclosed in your Royall letter; and wee are of opinion, that when the good and safety of the kingdome in generall is concerned, and the whole kingdome in danger, your Majestie may, by writ under the great Seale of England, command all the Subjects of this your kingdome, at their charge, to provide and furnish such number of Ships with Men, Victuall and Munition; and for such time as your Majestie shall thinke fit, for the defence and safeguard of the kingdome, from such danger and perill; and that by Law your Majestie may compell the doing thereof in case of refusall, or refractorinesse: And we are also of opinion that in such case, your Majesty is the sole Judge both of the danger, and when, and how the same is to be prevented and avoided. *John Brampston, John Finch, Humphrey Davenport, John Denham, Richard Hutton, William Jones, George Croke, Thomas Trevor, George Vernon, Robert Berkley, Francis Crawley, Richard Weston.*

Which said opinions contained in the first and second Articles, are destructive to the fundamentall Lawes of this Realme, the subjects right of property, and contrary to former resolutions in Parliament, and to the petition of right.

3. That

3 That he the said Sir John Brampton, then Lord chief Justice of the Court of Kings Bench, about Trinity Terme, 1637. refused to baile or discharge Alexander Jennings prisoner in the Fleet, brought by *Habeas Corpus* to the barre before him, the returne of this Commitment being two severall warrants from the Lords of the Councell, dated the fifth of November 1635. the first expressing no cause, the other for not paying messengers fees, and untill he should bring certificate that he had paid his Assessement for ship-money, in the County of Bucks: And the said Sir John Brampton, the first warrant being onely read, then said, The cause of this Commitment did not appeare; and it was not fit for every Goaler to be made acquainted by the Lords of the Councell why they committed, and therfore remitted him; and in Michaelmas Terme after, the said Jennings being brought by another *Habeas Corpus*, as aforesaid, and the same returned, yett hee the said Sir John Brampton, refused to discharge or baile him, but remitted him. And in Easter Terme next, after severall rules for his Majesties Councell to shew cause why he the said Jennings should not be bailed, a fourth rule was made for the said Jennings, to let his Majesties Attorney have notice, which notice was given accordingly, yett he remitted him. And the said Jennings by another *Habeas Corpus* brought to the Barre, as aforesaid, in Trinity Terme after, and the same returne with the addition of a new Commitment of the fourth of May, 1638. suggested, that he the said Jennings had used divers scandalous words in derogation and disparagement of his Majesties government; after severall rules, in the end of the said Trinity Terme, hee againe remitted him to prison. And he the said Sir John Brampton, about the ninth of July after, at his chamber in Serjeants Inne, being desired by Master Meauris, one of the Clerkes of the Councell-board, to discharge the said Jennings, for that he the said Jennings had entred into a Bond of 1000. pounds, to appeare before the Lords of the

Councell the next Michellmas Terme after, and to attend *de die in diem*; yet hee the said Sir *John Brampton* refused to discharge the said *Jennings* untill hee entered into Recognizance to appeare the next Terme, and in the meane time to bee of his good behaviour. And the said *Jennings* was continued on his said Recognizance till Easter Terme after. And the said Sir *John Brampton*, did on the 5. of June, 1640. deferre to grant his Majesties writ of *habeas Corpus* for *Samuel Davers*, and *William Pargiter* Esquires, prisoners in the Gate-house, and in the Fleet; and when hee had granted the said writ, the said eighth of June after thereturne, being the order of the Councell Table, not expressing any cause, hee the said Sir *John Brampton* deferred to baile the said *Pargiter*. And the eighteenth of June after made a rule for a new returne to bee received, which was returned the five and twentieth of the said June, *in hoc verba*:

Whereas his Majesty finding that his Subjects of *Scotland*, have in rebellious and hostile manner assembled themselves together, and intend not onely to shake off their obedience unto his Majesty, but also as enemies to invade and infest this his Kingdome of *England* to the danger of his royall person, &c.

For prevention whereof his Majesty hath, by the advice of his Councell-board, given speciall commandement to all the Lord Lieutenants of all the Counties of his Realme, with expedition, to array and arme a certaine number of able men in each County, to be prepared, and ready to be conducted to such place as should be appointed for their Randevouz, in their severall and respective Counties, there to be conducted and drawne together into a body for this service.

And whereas his Majesty, according to the Lawes and Statutes of this Realme, and the constant custome of his Predecessours, Kings and Queenes of this Realme hath power, for the defence of this Kingdome, and resisting the

force

force of the enemies thereof, to grant forth Commissions under his great Seale to such fit persons as he shall make choice of, to array and arme the subjects of this Kingdome, and to compell those who are of able bodies, and of able estates, to arme themselves; and such as should not be of able bodies, but of ability in estate, to asseffe them according to their estates, to contribute towards the charge of arraying and arming others being able of body, and not able in estate to arme themselves: And such persons as should be contrariant to commit to prison, there to remaine untill the King should take further order therein.

And whereas the Earle of *Essex*, by vertue of his Majesties Commission to him directed, for the arraying and arming of a certaine number of persons in the County of *Northampton*, hath asseff *William Pargier* being a man un-fitt of body for that service, but being of estate and ability fit to contribute, amongst others, to pay the summe of five shillings towards the arraying and arming of others of able bodies, and wanting ability to arme and array themselves.

And whereas wee have received information from the said Earle, that the said *William Pargier* hath not onely in a wilfull and disobedient manner refused to pay the said money asseffed upon him towards so important a service, to the disturbance and hinderance of the necessary defence of this Kingdome; but also by his ill example hath misled many others, and, as wee have just cause to believe, hath practised to seduce others from that ready obedience which they owe, and would otherwise have yielded to his Majesties just command, for the publick defence of his person and Kingdome; which wee purpose with all convenient speed to enquire further of and examine.

These are therefore to will and require you to take into your custody the person of the said *William Pargier*, and him absolutely to keepe prisoner till further order from this Court, or untill by due course of Law hee shall be delivered.

(And the like returne was then made in all things, *mutatis mutandis*, concerning the said *Danvers* for not paying a sum of money assessed upon him: ) yet hee the said Sir *John Brampton* deferred to baile the said *Danvers* and *Pargiter*, but remitted the said *Danvers* to the Fleet, where he remained till the twelfth of July, 1640. and the said *Pargiter* to the prison of the Gate-house, where he remained till the ninth of November last, although the said *Jennings*, *Danvers* and *Pargiter*, upon all and every the said returnes, ought to have been discharged or bailed by Law; and the Councell of the said *Jennings*, *Danvers* and *Pargiter* offered in Court very sufficient baile. And he the said Sir *John Brampton* being chief Justice of the Court of Kings Bench, denyed to grant his Majesties writ of *habeas Corpus* to very many others his Majesties subjects: and when he had granted the said writs of *habeas Corpus* to very many others his Majesties subjects, and on the returne no cause appeared, or such cause onely as was clearly baileable by Law, yet he remanded them, where they remained prisoners very long; which said deferring to grant the said writs of *habeas Corpus*, and refusall, and delayes to discharge prisoners, or suffer them to be bailed, contained in this Article, are destructive to the fundamentall Lawes of this Realme, and contrary to former resolutions in Parliament, and to the petition of Right; which said resolutions and petition of Right were well knowne to him the said Sir *John Brampton*.

4 That whereas there was a cause depending in the Court Christian at Norwich, between *Samuel Booty* Clerke, and *Collard* for two shillings in the pound for tithes for rents of houses in Norwich, and the said *Collard* moved by his Councell in the Court of Kings Bench for a prohibition to stay proceedings in the Court Christian at Norwich, and delivered into the said Court of Kings Bench his suggestions, that the said cause in the said Court Christian was for tithes for rents of houses in Norwich, which



*Judge Brampston's Charge.*

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which was determinable by the Common Law onely; yet hee the said Sir John Brampston, being chiefe Justice of the said Court of Kings bench, and sitting in the said court, deferred to graunt a prohibition to the said Court christian in the said cause, although the Councell did move in the said court severall times and severall Termes for a prohibition: And hee the said Sir John Brampston deferred to graunt his Maiesties Writ of prohibition to severall other Courts on the motions of divers others his Majesties subjects, where the same by the lawes of this Realme ought to have been graunted, contrary to the lawes of this Realme and his owne knowledge.

And the said Commons by Protestation saving to themselves onely the liberties of exhibiting at anytime hereafter, any other accusation or impeachment, &c. ut supra, in the former charge.

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*Articles*

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*Articles of the House of Commons in the name of themselves,  
and of all the Commons of England, against Sir Francis  
Crawley Knight, one of the Iustices of his Majesties Court  
of Common-pleas, impeaching him as followeth.*

1. **T**hat he about the Moneth of November *Anno Dom.* 1635. then being one of the Iustices of the Court of Common-pleas, &c having taken an oath for the due administration of Iustice to his Majesties liege people, according to the Lawes and Statutes of this Realme, subscribed an opinion in *hec verba*: [ I am of opinion, that as where the benefit doth more peculiarly redound to the good of the Ports, or Maritime parts, (as in case of Pyracie or Depredations upon the Seas) there the charge hath beene, and may be lawfully imposed upon them, according to presidents of former times; so where the good and safety of the Kingdome in generall is concerned, and the whole kingdome in danger, (of which his Majestic is the onely Iudge) there the charge of the defence ought to be borne by all the Realme in generall: this I hold agreeable both to Law and reason. ]

2. That he, in or about the moneth of February, *An. Dom.* 1636. then being one of the Iustices of the said Court of Common-pleas, subscribed an extrajudiciall opinion, in answer to questions in a letter from his Majestic, in *hec verba*:  
 \* Charles R. When the good and safetie of the kingdome in generall is concerned, and the whole kingdome  
 \* in danger, Whether may not the King, by writ under the  
 \* great Seale of England, command all the Subjects of this  
 \* kingdome, at their charge, to provide and furnish such  
 \* number of Ships with Men, Victuall and Munition; and  
 \* for

\* for such time as hee shall think fit for the defence and  
 \* safeguard of the Kingdome from such danger and peril,  
 \* and by Law compell the doing thereof, in case of refusall,  
 \* or refractorinesse: And whether in such case is not the King  
 \* the sole Iudge, both of the danger, and when, and how the  
 \* same is to be prevented and avoyded, C.R.

\* May it please your most excellent Majestie, wee have,  
 \* according to your Majesties command, severally every  
 \* man, by himselfe, and all of us together, taken into serious  
 \* consideration the Case and Question signed by your Ma-  
 \* jestie, and inclosed in your Royall letter; and we are of  
 \* opinion, that when the good and safetie of the Kingdome  
 \* in generall is concerned, and the whole kingdome in dan-  
 \* ger, your Majestie may, by Writ under the great Scale  
 \* of England, command all the Subjects of this your King-  
 \* dome, at their charge, to provide and furnish such number  
 \* of Ships, with Men, Victuall and Munition, and for such  
 \* time as your Majestie shall think fit, for the defence  
 \* and safeguard of the Kingdome, from such danger and pe-  
 \* rill; and that by Law your Majestie may compell the  
 \* doing thereof in case of refusall, or refractorinesse: And  
 \* wee are also of opinion that in such case your Majestie  
 \* is the sole Iudge both of the danger, and when, and  
 \* how the same is to be prevented and avoyded. *John*  
 \* *Brampston, John Finch, Humphrey Davenport, John*  
 \* *Denham, Richard Hutton, William Jones, George Crooke,*  
 \* *Thomas Trevor, George Vernon, Robert Berkley, Francis*  
 \* *Crawley, Richard Weston.*

3 That he then being one of the Iustices of the said Court  
 of Common-pleas, delivered an opinion in the Exchequer  
 Chamber against *John Hampden* Esquire, in case of Ship-  
 money; that hee the said *John Hampden* upon the matter  
 and substance of the case, was chargeable with the money  
 then in question, (a Copie of which proceedings and judge-  
 ment, the Commons of this present Parliament have al-  
 ready delivered to your Lordships.)

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4 That

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4 That hee then being one of the Iustices of the said Court of Common-pleas, declared and published in the Exchequer Chamber, and Westminster Circuits, where he went Judge, That the Kings Right to Ship-money was so inherent a Right in the Crown, as an Act of Parliament could not take it away. And with divers malicious speeches conveyed against, threatened and discountenanced such as refused to pay Ship-money. All which opinions and judgements contained in the first, second, and third Articles, are destructive to the fundamentall Lawes of this Realme, the Subjects right of propertie, and contrary to former resolutions in Parliament, and to the Petition of Right, which said resolutions and Petition of Right were well known to him.

And the said Commons by protestation, saving to themselves only the Liberties of exhibiting at any time hereafter any other accusation or impeachment against the said Sir Francis Crawley, and also of replying to the answer that he the said Sir Francis Crawley shall make unto the said Articles, or any of them, or of offering proofe of the premises, or of any of their impeachments, or accusations that shall be exhibited by them, as the Case shall according to the course of Parliaments require, Doe pray that the said Sir Francis Crawley, one of the Iustices of the said Court of Common-pleas, may bee put to answer to all and every the premises; and that such proceedings, examinations, trialls, and judgements may bee upon every of them had and used, as is agreeable to Law and Justice.

I have then being one of the Iustices of the said Court of Common-pleas, delivered an opinion in the Exchequer Chamber, and Westminster Circuits, in case of ship-money; that hee the said Iustice had pronounced upon the matter and judgment of the case, was chargeable with the money then in question. (A Copie of which proceedings and judgement, the Commons of this present Parliament have already directed to your Lordships.)

Articles

*Articles of the House of Commons in the name of themselves,  
and of all the Commons of England, against Sir Humphrey  
Davenport Knight, Lord Chief Baron of his Majesties  
Court of Exchequer, impeaching him as followeth.*

**T**Hat whereas in the month of October, in the fourth  
yeare of his Majesties Reigne, the Farmours and Of-  
ficers of the Custome-house, having seized great quantities  
of Currants, being the goods of *Samuel Vassall* Merchant,  
and having conveyed them into certaine Store-houses at  
the Custome-house and detained them, because the  
said *Samuel Vassall* refused to pay an imposition of five  
shillings six pence upon every hundred weight of the said  
Currants, pretended to be due, and demanded by the said  
Farmours and Officers on his Majesties behalfe for the said  
Currants, whereas no such imposition was due or payable  
for the same; but the said imposition was and is against the  
Lawes of this Realme. And whereas also in Michaelmas  
Terme, in the said fourth yeare of his Majesties Reigne, his  
Majesties then Attorney generall exhibited an informati-  
on by English Bill in the Exchequer, against the said *Samuel  
Vassall*, setting forth that King *James* by his Letters Pa-  
rents dated *tertio Novem.* in the second yeare of his Reigne,  
did command the said imposition of 5. s. 6. d. upon every  
hundred weight of Currants should bee demanded and  
received: And that his Majestie that now is, by his Letters  
Parents dated the six and twentieth day of July, in the  
second yeare of his Reigne, did, by advice of his Privie  
Councell, declare his will and pleasure to be, that Subsidies,  
Customes and Impost should be levied in such manner as  
they were in the time of King *James*; and the same, and

the Farmes thereof to continue untill it might receive a setting by Parliament, and commanded the levying and receiving the same accordingly; and that the said *Samuel Vassall* before the said first day of October then last before the said Information exhibited, did bring into the port of London in ships foure thousand six hundred thirty eight hundred weight of Currants; and that *Richard Carmarthen* Surveyour in the said port of London, the said first day of October demanded of the said *Samuel Vassall* the said Imposition of five shillings six pence for every hundred weight of the said Currants; and that the said *Samuel Vassall* refused to pay the said imposition, and unjustly detained it from the King: To which Information the said *Samuel Vassall* appeared, and pleaded the Statute of *Magna Charta*, and the Statute of *De Tallagio non concedenda*, and that he was a Subject borne under the Kings Allegiance, and a Merchant of London using that trade, and that the said summe of five shillings six pence upon every hundred weight of Currants, was and is *malum salutum*, and not *antiqua seu recta consuetudo*, and that it was imposed without assent of Parliament: to which Plea the said Attourney Generall demurred in Law, and the said *Samuel Vassall* joyned in demurer with him; and when the said cause came to bee argued, *viz.* in Trinity Terme, in the sixth yeare of his Majesties Reigne, the said Sir *Humphrey Davenport* being then Lord chiefe Baron of his Majesties said Court of Exchequer, did contrary to his oath, and contrary to the Lawes of this Realme, and to the great impoverishment of the said *Samuel Vassall*, publickly deny, to heare the Counsell of the said *Samuel Vassall* to argue for him, and said, that the Case of the said *Samuel Vassall* would fall under the same rule with the case of one *Bates*, and therefore was already judged; and when the Councell of the said *Samuel Vassall* answering that they had nothing to doe with *Bates* his



his Case, but desired to argue for *M. Vassall*, the said Sir *Humphrey Davenport* replied, that they knew the opinion of the Court, and should be heard no further; and said, that the King was in possession, and that they (meaning the said Court of Exchequer) would keep him in possession: And the said Sir *Humphrey Davenport* shortly after did (together with the rest of the then Barons of the said Court of Exchequer) imprison the said *Samuel Vassall* for not paying such summes of money, as were pretended by the said Officers of the Custome-house, to bee due to his Majestie, and did delay the said *Samuel Vassall* from time to time, from having restitution of his said goods, being often in Court moved thereto, with intention to force the said *Samuel Vassall* to pay the said unlawfull imposition, and did also give his opinion and judgement upon the said Information for the King, and against the said *Samuel Vassall*; and by severall orders for that purpose made, did continue the possession of the said goods in the King, and the said *Samuel Vassall* could never obtaine any restitution at all of his said goods: whereas it was commanded to the Sheriffe of the County of York, by Writ under the Seale of his Majesties Court of Exchequer, dated the sixteenth day of May in the seventh yeare of his Majesties Reigne that now is, That he should distraine *James Maleverer* Esquire, to appeare before the Barons of his Majesties said Court of Exchequer, in the Octaves of the holy Trinity then next following, to make fine to the King for his trespassse and contempt in not comming to the presence of the King before the 31. day of January in the first yeare of his said Majesties Reigne, to take upon him the order of Knighthood, according to the forme of a Proclamation in that behalfe formerly made: At which day of the said Octaves of the holy Trinity, the said *J. Maleverer* did appeare, and pleaded to the said Writs, that although his said Majesty, the said 31. day of January, and for three yeeres next before, the said 31.

day of January was resident and remaining at his Palace at White-hall in the County of Middlesex; and that the said *James Maleverer* the said one and thirtieth day of January, and three dayes next before the said one and thirtieth day of January, was resident and remaining at Anchiffe in the said County of York; which is distant from the said Palace of White-hall, the space of one hundred and fourescore miles; and that the said *James Maleverer* the said one and thirtieth day of January aforesaid, or at any time before, had no lands or tenes in his own hands, or in the hands of Peofftes, to his use, but of the said County of York, and that that part of the said County of York which is nextest to the said Palace of White-hall, is distant from the said Palace of White-hall the space of one hundred and thirty miles; and that no Proclamation by vertue of any Writ of Proclamation, for the appearance of any persons whatsoever, to take the said Order of Knighthood, was made in any part of the said County of York before the thirtieth day of January in the said first yeare of his Majesties Reigne, by reason whereof the said *James Maleverer* could not personally come to the presence of his said Majestie to take the said Order of Knighthood before the said one and thirtieth day of January in the said first yeare of his Majesties said Reigne; yet the said *James Maleverer* for his fine in the premisses did humbly submit himselfe to the said Court, and demanded to bee discharged of the said issues returned and imposed upon him by reason of the premisses; yet notwithstanding the said Plea and submission of the said *James Maleverer*, and after the same was made as aforesaid, and entred upon Record in his Majesties said Court of Exchequer, and the said Court moved for stay of the Processe, and discharge of the issues, the said Sir *Humphrey Davenport* being then Lord chiefe Baron of the said Court of Exchequer, contrary to his oath, and contrary to the Laws of this Realme, and to the great impoverishing of the said *James Maleverer*, did

did (together with the rest of the then Barons of the said Court) refuse to impose any Fine whatsoever upon the said *James Maleverer*, and told him that the said Court had no power to Fine him, and that hee must compound with certain Commissioners for that purpose appointed. And did farther order and direct severall other Writs of *Distingas*, to issue forth of his Majesties said Court of Exchequer, under the Seale of the said Court, directed to the severall high Sheriffes of the said County of York; whereby the said Sheriffes were commanded further to distraine the said *James Maleverer* to appeare, as aforesaid: upon which said Writs of *Distingas*, severall great and excessive issues were returned upon the Lands of the said *James Maleverer*, amounting to the summe of two thousand pounds or there abouts; a great part whereof, the said *James Maleverer* was enforced to pay; and in like manner the said *Sir Humphrey Davenport* (together with the rest of the then Barons of the said Court of Exchequer) did order and direct such and the like unjust and undue proceedings; and the said proceedings were had and made accordingly against *Thomas Moyser* Esquire, and against severall other persons his Majesties Subjects in severall parts of this Realme, to the utter undoing of many of them.

2. That a sentence of Degradation, being given by the high Commissioners of the Province of York, against *Peter Smart*, Clerk, one of the Prebends of the Church of Durham, for a Sermon by him formerly preached against some Innovations in the Church of Durham, a tryall was afterwards had, viz. in *August* in the seventh year of his said Majesties Reigne, before the said *Sir Humphrey Davenport* Knight, then one of the Judges of Assizes and *Nisi prius* for the County Palatine of Durham, concerning the Corps of the Prebend of the said *M. Smart*, which was then pretended to be voyd by the said sentence of Degradation; the said *Sir Humphrey Davenport* contrary

to his oath, and contrary to the Lawes of this Realme, and to the destruction of the said Master *Smart*, upon reading the Writ *de heretico comburendo*, did publicly on the Bench, in the presence of divers his Majesties Subjects then attending, declare his opinion to be, that the said Prebends place was voyd, and gave direction to the Jury then at Barre to finde accordingly: and being then informed that although the said Master *Smart* had been dead or deprived, yet the profits of his Prebend had been due to his Executors till the Michaelmas following; the said Sir *Humphrey Davenport* then answered, though the said Master *Smart* was not dead, yet if he had had his desert, he had been dead long agoe, for hee deserved to have been hanged for the said Sermon, and that he was as wicked a man as any lived in the world: call him no more Master *Smart*, but plaine *Smart*. And when the said Jurie had found against the said Master *Smart*, the said Sir *Humphrey Davenport*, in scandall of his Majesties Government and Justice, and of the proceedings of his Majesties Iudges, did publicly as aforesaid speak words to this effect; That the said Jurie had well done, and that the said *Smart* had do remedy save by appeale to the King; and there hee should finde but cold comfort; for the King would not goe against his own Prerogative, upon which the Iudges and high Commissioners did depend, and therefore would not contradict one anothers Acts.

That the said Sir *Humphrey Davenport* about the Month of November, *Anno Dom.* 1625. then being Lord chiefe Barron of his Majesties Court of Exchequer, and having taken an oath for the due administration of justice to his Majesties Liege people, according to the Lawes and Statutes of this Realm, subscribed his name to an opinion, *in hec verba*: [I am of opinion, that as where the benefit doth more particular redound to the good of the Ports, or Maritime parts, (as in Case of Pyracie or Depredations upon the Seas) there the charge hath been, and may be lawfully imposed upon

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upon them, according to precedents of former times ; so where the good and safety of the kingdome in generall is concerned, and the whole kingdome in danger, ( of which his Majestie is the onely Judge) there the charge of the defence ought to be borne by all the Realme in generall: this I hold agreeable both to Law and reason ]

That in or about the moneth of Februarie *Anno Dom.* 1636. the said Sir *Humphrey Davenport*, then being Lord chiefe Baron of the said Court of Exchequer, subscribed an extrajudiciall opinion in answer to questions in a letter from his Majestie, *in hac verba* :

‘ *Charles R.* When the good and safetie of the kingdome in generall is concerned, and the whole kingdome in danger , whether may not the King, by writ under the great Seale of England, command all the Subjects of this kingdome , at their charge, to provide and furnish such number of Ships with Men, Victuall and Munition ; and for such time, as hee shall thinke fit, for the defence and safeguard of the kingdome, from such danger and perill ; and by Law compell the doing thereof in case of refusall, or refractorinesse? And whether in such case is not the King the sole Judge, both of the danger , and when, and how the same is to bee prevented and avoided? *C. R.*

‘ May it please your most excellent Majestie , We have, according to your Majesties command , severally every man by himselfe, and all of us together, taken into serious consideration the Case and Question signed by your Majestie, and inclosed in your Royall letter ; and we are of opinion, that when the good and safetie of the kingdome in generall is concerned, and the whole kingdome in danger, your Majestie may, by writ under the great Seale of England, command all the Subjects of this your kingdome, at their charge, to provide and furnish such number of Ships with Men, Victuall and Munition ; and for such time as your Majestie shall thinke fit, for the defence and safeguard of the kingdome, from such danger and perill;

'rill ; and that by Law your Majestie may compell the  
 'doing thereof in case of refusall, or refractorinesse : And  
 'wee are also of opinion that in such case your Majestie is  
 'the sole Judge both of the danger, and when, and how  
 'the same is to bee prevented and avoyded. *John*  
 'Brampton, *John Finch*, *Humphrey Davenport*, *John Den-*  
 'ham, *Richard Hutton*, *William Jones*, *George Crooke*,  
 'Thomas Trevor, *George Vernon*, *Robert Berkley*, *Francis*  
 'Crawley, *Richard Weston*.

That whereas an Action of Batterie was brought by  
 one *Richard Legge*, against *Robert Hoblins*, to which the  
 said *Hoblins* pleaded a Justification *de son assault demesne*, and  
 the said cause came to triall at the Assizes held for the  
 Countie of Gloucester in Summer, 1636. before the said  
*Sir Humphrey Davenport* then one of the Justices of Assize  
 and *Nisi prius* for that Countie : At the said triall the said  
*Robert Hoblins* did begin to make proove of his said justifi-  
 cation, and produced one *Robert Tilly* a witnesse in the  
 cause, who proved upon oath that the said *Richard Legge*  
 did make the first assault upon the said *Robert Hoblins* and  
 that the occasion thereof was, that the said *Richard Legge*  
 and others came upon the lands then in possession of the  
 said *Hoblins*, and did take and drive away eighteen Cowes  
 of the said *Hoblins*, pretending they had a warrant from  
 the Sheriffe to distrein the same for forty shillings assessed  
 upon the said *Hoblins* for Ship-moréy ; and when the said  
*Hoblins* (being present) endeavoured to hinder the said  
*Legge* and others from taking away his said Cattell, the  
 said *Legge* strooke the said *Hoblins* with a staffe, who af-  
 terward defended himselfe. That upon the opening of the  
 matter the said *Sir Humphrey Davenport* would not suffer  
 the said *Hoblins* to produce any more witnesses on his be-  
 halfe, (though the said *Hoblins* desired that other of his said  
 witnesses then present, and sworne might be heard) nor his  
 Councell to speake for him, but being informed that the  
 said *Hoblins* (when Ship-money was demanded of him)  
 answered,



answered, that he would not pay the same, because it was not granted by Parliament, the said Sir *Humphrey Davenport* did then (openly in the hearing of a great number of his Majesties liege people, then assembled and attending the said Court) in great passion reprove the said *Hobbins*, and told him that the King was not to call a Parliament to give him satisfaction; and did then and there also falsely and of purpose, to prevent his Majesties loving Subjects from the due and ordinary course of Law, and contrary to his oath and the Lawes of this Realme, publish, declare and affirme, that it was adjudged by all the Judges of England, that Ship-money, was due to the King, and directed the Jury sworne in that cause, to finde a Verdict for the said *Richard Legge*; and the said Jury did accordingly, and gave him twenty pound dammages. And the said *Humphrey Davenport* did then also without any cause imprison the said *Robert Hobbins*, and bound him to the good behaviour. That whereas in the moneth of Aprill, *Decimo sexto Caroli*, the officers of the Custome-house, having seized a Ship of one *Samuel Warner's*, laden with Tobacco, being the goods of the said *Warner's*, the Bulke of the said ship not being broken, and no information exhibited for the King according to the course of the Exchequer, for any duty, the Barons were moved, that the said ship might be restored to the Proprietors, giving security to pay such duties as did belong to the King; But upon the Allegation of the Kings Attorney, that there needed no information because there was no penaltie, the said Sir *Humphrey Davenport*, being then Lord chiefe Baron of his Majesties Court of Exchequer, together with the rest of the then Barons of the said Court, did (contrary to his oath, and contrary to the Lawes of this Realme,) deny the restitution of the said ship, unlesse all the duties demanded by the Farmours of the Custome-house were first paid. Hereupon the said *Warner* brought an action of Trover in the office of Pleas in the Exchequer against the said Officers that seized his ship and goods;

wherupon the Kings Attorney generall exhibited an information by English Bill in the Exchequer chamber against the said *Warner*; setting forth, that Customes and Subsidies upon Merchandize were a great part of the Kings revenue, and payable to him, and that the said Ship was seized for non-payment of the aforesaid duties, notwithstanding the said *Warner* then Proprietor, prosecuted the officers upon a suit at Law, and prays that hee may answer the said Information before any further proceedings be had at Law: Thereupon the said Sir *Humphrey Davenport*, together with the rest of the then Barons of the said Court of Exchequer, ordered, that the Proprietor moving for the delivery of the said goods, should first answer to the information; after which the said *Warner* demurred to the said Information, in regard no title for any certaine dutie was set forth by the Information, which demurrer yet remains not over-ruled; but the said Sir *Humphrey Davenport*, with the said other Barons, without over-ruling the demurrer, ordered, because *Warner* had put in a demurrer and not answered to the said Information, that he should not proceede upon the action of *Trover*. The Proprietor being thus prevented of his remedy by Action at Law, sued forth a *Replevin*, and upon pretence of viewing the said goods, caused them to be brought forth of a Cellar, hired by a depositee to the Farmours to that use; and being brought forth, they were taken by the Sheriffes of London, by vertue of the said *Replevin*; and upon oath made of the manner of the taking, as aforesaid, before the Barons, and upon view of the President, inrolls his case; the said Sir *Humphrey Davenport*, with the said other Barons, adjudged, that the said goods were not Replevisable, and granted an Injunction to maintaine possession of them as they were before. And the said house of Commons by protestations, saving to themselves onely the liberties of exhibiting at any time hereafter, any other accusation or impeachment

impeachment against the said Sir *Humphrey Davenport*, and also of replying to the answer that hee the said Sir *Humphrey Davenport* shall make unto the said Articles, or any of them, or of offering prooffe of the premiffes, or any of their impeachments or accusations that shall be exhibited by them; as the Case shall (according to the course of Parliaments) require; doe pray that the said Sir *Humphrey Davenport*, Lord chiefe Baron of his Majesties Court of Exchequer, may be put to answer to all and every the premiffes; and that such proceedings, examinations, trials, and judgements may be upon every of them had and used, as is agreeable to Law and Justice.

**E 3**

**Articles**

Articles of the House of Commons in the name of themselves, and all the Commons of England, against Sir Richard Weston Knight, one of the Barons of his Majesties Court of Exchequer, impeaching him as followeth.

1 **T**hat the said Sir Richard Weston about the moneth of November, Anno Domini 1635. then being one of the Barons of his Majesties Court of Exchequer, and having taken an oath for the due Administration of Justice to his Majetties liege people, according to the Lawes and Statutes of this Realme, subscribed his name to an opinion in *hac verba*: I am of opinion, &c. *ut supra* in Sir Robert Berkley's Charge, pag. 4.

2 That in or about the moneth of February, Anno Domini 1636, the said Sir Richard Weston (being then one of the Barons of the said Court of Exchequer) subscribed an extrajudiciall opinion in answer to questions in a Letter from his Majestie, in *hac verba*:

Charles R. When the good and safety of the Kingdome in generall is concerned, &c. *ut supra*, pag. 4.

3 That the said Sir Richard Weston (being then one of the Barons of his Majesties Court of Exchequer) did deliver his opinion and judgement in the Exchequer Chamber against John Hampden Esquire in the Case of Ship-money, That he, the said John Hampden, &c. as in Judge Crawley's Charge, pag. 23.

4 That whereas in the moneth of Aprill 16. Caroli, the Officers of the Custome-house having seized a ship of one Samuel Warner's, laden with Tobacco, being the goods of the said Warner, the bulke of the said ship not being broken, and no information exhibited for the King, according

to the course the Exchequer, for any duty, the Barons were moved, that the said ship might bee restored to the proprietors, giving security to pay such duties as did belong to the King. But, upon the allegation of the Kings Attorney, that there needed no information, because there was no penalty, the said Sir *Richard Weston* (being then one of the Barons of his Majesties Court of Exchequer, together with the rest of the then Barons of the said Court) did (contrary to his oath, and contrary to the Lawes of this Realme) deny the restitution of the said ship, unlesse all the duties demanded by the Farmours of the Custome-house were first paid. Hereupon the said *Warner* brought an action of Trover upon the case in the Office of Pleas in the Exchequer against the said Officers that seized his ship and goods: Whereupon the Kings Attorney Generall exhibited an information by English Bill in the Exchequer Chamber against the said *Warner*, setting forth, that Customes and Subsidies upon Merchandize were a great part of the Kings revenue, and payable to him, and that the said ship was seized for non-payment of the aforesaid duties; notwithstanding the said *Warner*, the proprietor prosecuted the Officers upon a Suit at Law, and prayes that he may answer the said Information before any further proceedings be had at Law. Thereupon the said Sir *Richard Weston*, together with the rest of the then Barons of the said Court of Exchequer, ordered that the proprietor moving for delivery of his said goods, should first answer to the Information, after which the said *Warner* demurred to the said Information: in regard no title for any certaine duty was set forth by the Information: Which demurrer yet remains not over-ruled, but the said Sir *Richard Weston* (with the said other Barons) without over-ruling the demurrer, ordered (because *Warner* had put in a demurrer, and not answered to the said Information) that he should not proceed upon the action of Trover: The proprietor being thus prevented of his remedy by Action at Law, sued

sued forth a Replevin, and (upon pretence of viewing the said goods) caused them to be brought forth of a cellar, hired by a Deputy to the Farmers to that use, and being brought forth, they were taken by the Sheriffs of London, by vertue of the said Replevin; and upon oath made of the manner of the taking, as aforesaid, before the Barons, and upon view of the president, inrolls his case; the said Sir *Richard Weston*, with the said other Barons, adjudged that the said goods were not repleviable, and granted an Injunction to maintaine the possession of them, as they were before.

And the said house of Commons by Protestation, saving to themselves onely the liberties of exhibiting at any time hereafter any other accusation or impeachment against the said Sir *Richard Weston*, and also of replying to the answer that he, the said Sir *Richard Weston* shall make unto the said Articles, or any of them, or of offering proofe of the premisses, or any of their impeachments or accusations that shall be exhibited by them, as the case shall (according to the course of Parliaments) require, do pray, that the said Sir *Richard Weston*, one of the Barons of his Majesties Court of Exchequer, may be put to answer, &c.

### *Articles*



~~Articles of the House of Commons in the name of themselves, and of all the Commons of England, against Sir Thomas Trevor, Knight, one of the Barons of his Majesties Court of Exchequer, impeaching him as followeth.~~

**A**rticles of the House of Commons in the name of themselves, and of all the Commons of England, against Sir Thomas Trevor, Knight, one of the Barons of his Majesties Court of Exchequer, impeaching him as followeth.

That in or about November, 4. Can. divers goods and merchandizes (whereof John Rolls, George Moore, and other Merchants of London were Proprietors) being seized and conveyed into certaine Store-houses at the Custome-house, by Sir John Worstanham, Abraham Dawes, and others the Farmours and Officers of the Customes, and by them there detained, because the said Proprietors refused to pay the Subsidie of Tonnage and Poundage, pretended to be due, and demanded by the said Farmours and Officers on his Majesties behalfe for the said Merchandizes, whereas, no such Subsidie or duty of Tonnage or Poundage was due or payable for the same, no Subsidie of Tonnage and Poundage having beene granted by Parliament to his Majestie. The said John Rolls, and other the Proprietors of the said goods, having by reason of such unlawfull seizure and detainer, as aforesaid, sued forth one or more writs or writs of *Replevin*, directed to the Sherifes of London (being the proper remedie provided by the Law to regaine the possession of goods taken and with-held from the owners contrary to Law) the said Sir Thomas Trevor Knight, then and yet one of the Barons of his Majesties said Court of Exchequer, together with the rest of the then Barons of the said Court, upon information to them given, that the said Proprietors, or some of them, had sued forth and did

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prosecute

prosecute such writ, or writs of *Replevin* for deliverie of the said goods, did order an Injunction under Scale of the said Court to issue forth, directed to the Sheriffes of London, commanding them thereby not to execute the said writ or writs of *Replevin*, or any like writ thereafter to be sued forth by any person or persons for the delivery of any goods in the like nature detained: And did declare and order publicly in the said Court of Exchequer, that the said goods by Law were not Replevisable, alledging for cause that the said goods were in the Kings owne possession, whereas the same did not judicially appeare to them, and they did well know that the said goods were at that time in the possession of the Farmours and Lessees of the said Customes, and no lawfull cause to them appearing or suggested of the taking and detaining of the said goods: which Injunction and declaration so granted and made, were and are against the Lawes of the Realme, and in subversion of the common right, and remedy of the Subject for regaining the possession of his goods being taken and with-holden from him without lawfull cause.

That the Sheriffes of London for that time being served with the said Injunction, did forbear to execute the said writ or writs of *Replevin*: By meanes whereof the said goods continued so detained as aforesaid, contrary to Law, from the said moneth of November untill the moneth of June next following.

That the said Sir *Thomas Trevor* and other the Barons aforesaid, knowing the said goods to be unlawfully seized and detained for the pretended duties and Subsidie of *Tonnage* and *Poundage*, whereas no such were payable by Law, did from time to time delay the respective Proprietors from having restitution of their said goods, being often in Court moved therein, with intention thereby to force the said Proprietors (by wanting their goods and the use thereof) to pay all such summes as the said Officers of the Customes pretended to be due to his Majestie.

That

That to the end aforesaid the said Sir *Thomas Trevor*, and the said other Barons refused to accept of any securitie to be given by the said Proprietors, upon restitution had of their goods, for payment of all such duties as should bee made appeare to be payable to his Majestie in such manner as the said Barons should direct. That the said Sir *Thomas Trevor* and other the Barons aforesaid, knowing that the said summes demanded on his Majesties behalfe by the said Officers of the Customes not to be due by Law, did refuse to order restitution of any part of those goods, (so detained as aforesaid) to the Proprietors thereof, unlesse the said Proprietors would deposite all such summes of money as the said Officers respectively demanded of them for pretended duties to his Majestie; and the said Proprietors refusing to deposite the said summes demanded, the said Sir *Thomas Trevor*, and other the Barons aforesaid, did order the said Officers to detaine double the value of the summes by them demanded for pretended duties to his Majestie, and to restore the residue: The said Sir *Thomas Trevor*, and other the said Barons then knowing that the pretended summes demanded by the said Officers, were not by Law due or payable to his Majestie.

2 That in or about January 4. *Car.* the said Officers having seized severall Merchandize of the goods of *Richard Chambers* Merchant, upon the pretences aforesaid, did detain the same; and the said *Chambers* prosecuting by plaint to have his said goods replevied, the said Sir *Thomas Trevor*, together with the said other Barons, did in like manner in the said Court of Exchequer, declare the said *Chambers* goods not to be Replevisable, and enjoyned the Sheriffes of London to proceed no further therein, no cause to them appearing of such seizure or detainer. And the said Sir *Thomas Trevor*, and other the Barons of the said Court, refused to order the delivery of the said *Chambers*'s goods, upon good security offered by him to pay all such summes as should be made appeare to

be due, and for which the said goods were pretended to be detained and the said Barons being often moved in Court; therein did refuse to order restitution of any part of the said *Chambers* goods, untill the three and twentieth of November, 3. *Caroli*; and then ordered that the said Officers should detain in their hands double the value of the summes by them demanded, and restitution of the residue to be made to the said *Chambers*; no cause of detaining any part of the said goods to them in any wise appearing.

3. That whereas in the moneth of October, in the fourth yeare of his said Majesties reigne, the Farmers and Officers of the Custome-house having seized great quantities of Currants, being the goods of *Samuel Vassall* Merchant, and having conveyed them into certaine Store-houses at the Custome house and detained them, because the said *Samuel Vassall* refused to pay an imposition of five shillings six pence upon every hundred weight of the said Currants; pretended to be due, and demanded by the said Farmours and Officers on his Majesties behalfe for the said Currants, whereas no such imposition was due or payable for the same, but the said imposition was and is against the Lawes of this Realme. And whereas also in Michaelmas Terme, in the said fourth yeare of his Majesties Raigne, his Majesties then Attorney generall exhibited an information by English Bill in the Exchequer Chamber against the said *Samuel Vassall*, setting forth that *K. James*, by his Letters Patents dated 3. *Novem.* in the second yeare of his Raigne, did command that the said imposition of *s. s. 6. d.* upon every hundred weight of Currants should be demanded and received: And that his Majestie that now is, by his Letters Patents dated the six and twentieth day of July, in the second yeare of his Raigne, did, by advise of his Privie Councell, declare his will and pleasure to be, that Subsidies, Customs and Imposts should be levied in such manner as they were levied in the time of King *James*; and the same, and

and the Farmers thereof to continue until it might receive a settling by Parliament and commanded the levying and receiving the same accordingly; and that the said Samuel Vassall before the first day of October then last past before the said Information exhibited, did bring into the port of London in ships four thousand six hundred thirty eight hundred weight of Currants; and that Richard Carmarthen Surveyour in the said port of London, the said first day of October demanded of the said Samuel Vassall the said imposition of five shillings six pence for every hundred weight of the said Currants; and that the said Samuel Vassall refused to pay the said imposition, and unjustly detained it from the King: To which Information the said Samuel Vassall appeared, and pleaded the Statute of *Magna Charta*; and the Statute of *De Tallagio non concedendo*, and that he was a Subject borne under the Kings Allegiance, and a Merchant of London using that trade, and that the said summe of five shillings six pence upon every hundred weight of Currants, was and is *malum talnetum*, and not *antiqua seu recta consuetudo*, and that it was imposed without assent of Parliament; to which Plea the said Attorney General demurred in Law, and the said Samuel Vassall joyned in demurrer with him.

That the said Sir Thomas Trevor, being then and yet one of the Barons of his Majesties Court of Exchequer, together with the rest of the then Barons of the said Court, knowing the said Currants to be unlawfully seized and detained for the pretended duty of five shillings six pence imposition upon every hundred weight of the said Currants (whereas no such imposition was payable by Law) did from time to time delay the said Samuel Vassall from having restitution of his said goods, being often in Court moved therein, with intention thereby to force the said Samuel Vassall (by wanting the said goods, and the use thereof) to pay all such summes as the said Officers of the

Customes pretended to be due to his Majestie, and imprisoned the said *Samuel Vassall*, because he refused to pay such summes of money as were demanded of him for the said unlawfull imposition, and that in Trinity Terme in the sixth yeere of his Majesties reigne, the said case comming to be argued in open Court upon the demurrer, the said Sir *Thomas Trevor*, contrary to his oath, and contrary to the Lawes of this Realme, and to the great impoverishment of the said *Samuel Vassall*, did (together with the rest of the then Barons of the said Court of Exchequer) give his opinion and judgement upon the said Information for the King, and against the said *Samuel Vassall*, and by severall Orders for that purpose, did continue the possession of the said goods in the King, and the said *Samuel Vassall* could never obtaine any restitution at all of the said Currents.

4 Whereas it was commanded to the Sheriffe of the Countie of Yorke, by Writ under the Seale of his Majesties Court of Exchequer, dated the sixteenth day of May in the seventh yeere of his Majesties Reigne that now is, That he should distraine *James Maleverer* Esquire, to appeare before the Barons of his Majesties said Court of Exchequer, in the Octaves of the holy Trinity then next following, to make fine to the King for his trespassse and contempt in not comming to the presence of the King before the 31. day of January in the first yeare of his said Majesties Reigne, to take upon him the order of Knighthood, according to the forme of a Proclamation in that behalfe formerly made; at which day of the said Octaves of the holy Trinity the said *J. Maleverer* did appeare, and pleaded to the said Writ, that although his said Majesty, the said 31. day of January, and for three days next before, the said 31. day of January was resident and remaining at his Palace at White-hall in the County of Middlesex, and that the said *James Maleverer* the said one and thirtieth day of January, and three dayes next before the said one and thirtieth



eth day of January, was resident and remaining at Ancliffe in the said County of Yorke, which is distant from the said Palace of White-hall the space of one hundred and fourescore miles; and that the said *James Maleverer* the said one and thirtieth day of January aforesaid, or at any time before, had no lands or rents in his owne hands, or in the hands of Feoffees to his uses, out of the said County of Yorke, and that that part of the said County of Yorke which is neereft to the said Palace of White-hall, the space of one hundred and thirty miles, and that no Proclamation by vertue of any Writ of Proclamation, for the appearance of any persons whatsoever, to take the said order of Knighthood, was made in any part of the said County of Yorke before the thirtieth day of January in the said first yeere of his Majesties reigne, by reason whereof the said *James Maleverer* could not personally come to the presence of his said Majestie, to take the said order of Knighthood, before the said one and thirtieth day of January in the said first yeere of his said Majesties reigne, yet the said *James Maleverer* for his fine in the premises, did humbly submit himselfe to the said Court, and demanded to be discharged of the said issues, returned and imposed upon him by reason of the premises; yet notwithstanding the said Plea and submission of the said *James Maleverer*, and after the same was made as aforesaid, and entred upon Record in his Majesties said Court of Exchequer, the said *Sir Thomas Trevor* (being then one of the Barons of his Majesties said Court of Exchequer) contrary to his oath, and contrary to the Lawes of this Realme, and to the great impoverishing of the said *James Maleverer*, did (together with the rest of the then Barons of the said Court) refuse to impose any fine whatsoever upon the said *James Maleverer*, and told him that the said Court had no power to fine him; but that hee might compound with certaine Commissioners for that purpose appointed. And did farther order and direct severall

severall other writs of *Distringas*, to issue forth of his Majesties said Court of Exchequer, under the Seale of the said Court, directed to the severall high Sheriffes of the said Countie of Yorke, whereby the said Sheriffes were commanded further to distraine the said *James Maleverer* to appeare, as aforesaid: upon which said writs of *Distringas*, severall great and excessive issues were returned upon the lands of the said *James Maleverer*, amounting to the summe of two thousand pounds or thereabouts, a great part whereof, the said *James Maleverer* was enforced to pay; and in like manner the said Sir *Thomas Trevor* (together with the rest of the then Barons of the said Court of Exchequer) did order and direct such and the like proceedings, and the said proceedings were had and made accordingly against *Thomas Mosser Esquire*, and against severall other persons his Majesties subjects in severall parts of this Kingdome, to the utter undoing of many of them.

5 That he the said Sir *Thomas Trevor*, about the moneth of November, *Anno Domini* 1635, then being one of the Barons of his Majesties Court of Exchequer, and having taken an oath for the due administration of Justice to his Majesties liege people, according to the Lawes and Statutes of this Realme, subscribed his name to an opinion, *in hac verba*: [I am of opinion, &c. *ut supra* in *Baron Davenports Charge*] pag. 30.

6 That in or about the moneth of February *Anno Domini* 1636. (then being one of the Barons of the said Court of Exchequer) he subscribed an extrajudicial opinion in answer to questions in a letter from his Majesty, *in hac verba*:

“*Charles R.* When the good and safety of the kingdome in generall is concerned, &c. *ut supra*, loco citato, and subscribed *ut prius*.

7 That the said Sir *Thomas Trevor* (being then one of the Barons of his Majesties Court of Exchequer) did deliver his opinion, and judgement in the Exchequer chamber, against

against *John Hampden* Esquire, in the Case of Ship-money; That he the said *John Hampden* upon the matter and substance of the Case, was chargeable with the money then in question: a copie of which proceedings and judgement the Commons in this present Parliament have already delivered to your Lordships.

8. That whereas in the moneth of April 16. Car. the Officers of the Custome-house having seized a Ship of one *Samuel Warner's* laden with Tobacco, being the goods of the said *Warner*, the Bulke of the said Ship not being broken, and no information exhibited for the King, according to the course of the Exchequer, for any duty, the Barons were moved that the said Ship might be restored to the Proprietor, giving security to pay such duties as did belong to the King; But upon the allegation of the Kings Attorney that there needed no information, because there was no penaltie, the said *Sir Thomas Trevor*, (being then one of the Barons of his Majesties said Court of Exchequer, together with the rest of the then Barons of the said Court,) did (contrary to his oath, and contrary to the Laws of this Realme,) deny the restitution of the said Ship, unlesse all the duties demanded by the Farmours of the Custome-house were first paid. Hereupon the said *Warner* brought an action of *Treuer* in the office of Pleas in the Exchequer against the said Officers that seized his Ship and goods: whereupon the Kings Attorney generall exhibited an information by English Bill in the Exchequer chamber against the said *Warner*; setting forth, that Customes and Subsidies upon Merchandize were a great part of the Kings revenue, and payable to him; and that the said Ship was seized for non-payment of the aforesaid duties, notwithstanding the said *Warner* then Proprietor, prosecuted the Officers upon a suit at Law; and prayes that hee may answer the said Information before any further proceedings be had at Law: Thereupon the said *Sir Thomas Trevor*, (together with the rest of the then Barons of the said

Court

Court of Exchequer,) ordered, that the Proprietor moving for delivery of the said goods, should first answer to the said Information; after which the said *Warner* demurred to the said Information, in regard no title for any certain due was set forth by the Information, which demurrer yet remains not over-ruled; but the said *Sir Thomas Trevor*, with the said other Barons, (without over-ruling the demurrer) ordered, (because *Warner* had put in a demurrer and not answered to the said Information, that hee should not proceede upon the action of *Treuer*. The Proprietor being thus prevented of his remedie by action at Law, sued forth a *Replevin*, and (upon pretence of viewing the said goods,) caused them to be brought forth of a Cellar, hired by a depuie of the Farmours to that use; and being brought forth, they were taken by the Sheriffe of London, by vertue of the said *Replevin*; and upon oath made of the manner of the taking, at aforesaid, before the Barons; and upon view of the President, inrolls his case; the said *Sir Thomas Trevor*, with the said other Barons, ad judged, that the said goods were not Replevisable; and granted an Injunction to maintain the possession of them as they were before.

And the said house of Commons by protestation, saving to themselves only the liberties of exhibiting at any time hereafter any other accusation or impeachment against the said *Sir Thomas Trevor*, and also of replying to the answer that he the said *Sir Thomas Trevor* shall make unto the said Articles, or any of them, or of offering proof of the premises, or any of their impeachments or accusations that shall be exhibited by them, as the Case shall (according to the course of Parliaments) require, doe pray that the said *Sir Thomas Trevor*, one of the Barons of his Majesties Court of Exchequer, may be put to answer to all and every the premises; and that such proceedings, examinations, trialls, and judgements may be upon every of them had and used, as is agreeable to Law and Justice.

